or to perform basic, applied, or advanced research projects for a Federal agency that is subject to the FAR.

Other transaction means a transaction that—

(1) Is other than a contract, grant, or cooperative agreement;

(2) Is not subject to the FAR or its supplements; and

(3) Is entered into in accordance with 32 CFR part 3.

212.7002 Pilot program.

212.7002–1 Contracts under the program.

(a) The contracting officer may use FAR part 12 procedures to award a contract for an item or process that does not meet the definition of ''commercial item,'' if the contract—

(1) Is awarded to a nontraditional defense contractor;

(2) Is a follow-on contract for the production of an item or process begun as a prototype project under an other transaction agreement or as a research project carried out in accordance with 10 U.S.C. 2371;

(3) Does not exceed $50,000,000;

(4) Is awarded on or before September 30, 2010; and

(5) Is either—

(i) A firm-fixed-price contract; or

(ii) A fixed-price contract with economic price adjustment.

(b) See 212.7003 for special procedures pertaining to technical data and computer software.

[69 FR 63330, Nov. 1, 2004, as amended at 71 FR 18669, Apr. 12, 2006; 73 FR 21845, Apr. 23, 2008; 74 FR 2416, Jan. 15, 2009]

212.7002–2 Subcontracts under the program.

(a) A subcontract for an item or process that does not meet the definition of ''commercial item'' may be treated as a subcontract for a commercial item, if the subcontract—

(1) Is for the production of an item or process begun as a prototype project under an other transaction agreement or as a research project carried out in accordance with 10 U.S.C. 2371;

(2) Does not exceed $50,000,000;

(3) Is awarded on or before September 30, 2010;

(4) Is awarded to a nontraditional defense contractor; and

(5) Is either—

(i) A firm-fixed-price subcontract; or

(ii) A fixed-price subcontract with economic price adjustment.

(b) See 212.7003 for special procedures pertaining to technical data and computer software.

[71 FR 18669, Apr. 12, 2006, as amended at 73 FR 21845, Apr. 23, 2008; 74 FR 2416, Jan. 15, 2009]

212.7002–3 Thresholds.

The contract and subcontract thresholds at 212.7002–1(a)(3) and 212.7002–2(a)(2) include the dollar value of all options in accordance with section 826 of the National Defense Authorization Act for Fiscal Year 2011. See also FAR 1.108(c).

[76 FR 33171, June 8, 2011]

212.7003 Technical data and computer software.

For purposes of establishing delivery requirements and license rights for technical data under 227.7102 and for computer software under 227.7202, there shall be a rebuttable presumption that items or processes acquired under a contract or subcontract awarded in accordance with 212.7002 were developed in part with Federal funds and in part at private expense (i.e., mixed funding).

(a) *Delivery requirements.* Acquire only the technical data and computer software that are necessary to satisfy agency needs. Follow the requirements at 227.7103–1 and 227.7103–2 for technical data, and 227.7203–1 and 227.7203–2 for computer software.

(b) *License rights.* Acquire only the license rights in technical data and computer software that are necessary to satisfy agency needs.

(1) For technical data, use the clauses at 252.227–7013, Rights in Technical Data—Noncommercial Items, and 252.227–7037, Validation of Restrictive Markings on Technical Data.

(2) For computer software, use the clauses at 252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, and 252.227–7019, Validation of Asserted Restrictions—Computer Software.